

WACHTELL, LIPTON, ROSEN & KATZ

MARTIN LIPTON
 HERBERT M. WACHTELL
 EDWARD D. HERLIHY
 DANIEL A. NEFF
 STEVEN A. ROSENBLUM
 JOHN F. SAVARESE
 SCOTT K. CHARLES
 JODI J. SCHWARTZ
 ADAM O. EMMERICH
 RALPH M. LEVENE
 RICHARD G. MASON
 ROBIN PANOVKA
 DAVID A. KATZ
 ILENE KNABLE GOTTS
 TREVOR S. NORWITZ
 ANDREW J. NUSSBAUM
 RACHELLE SILVERBERG
 STEVEN A. COHEN
 DEBORAH L. PAUL
 DAVID C. KARP
 RICHARD K. KIM
 JOSHUA R. CAMMAKER

MARK GORDON
 JEANNEMARIE O'BRIEN
 WAYNE M. CARLIN
 STEPHEN R. DiPRIMA
 NICHOLAS G. DEMMO
 IGOR KIRMAN
 JONATHAN M. MOSES
 T. EIKO STANGE
 WILLIAM SAVITT
 GREGORY E. OSTLING
 DAVID B. ANDERS
 ADAM J. SHAPIRO
 NELSON O. FITTS
 JOSHUA M. HOLMES
 DAVID E. SHAPIRO
 DAMIAN G. DIDDEN
 IAN BOCZKO
 MATTHEW M. GUEST
 DAVID E. KAHLAN
 DAVID K. LAM
 BENJAMIN M. ROTH
 JOSHUA A. FELTMAN

**51 WEST 52ND STREET
 NEW YORK, N.Y. 10019-6150**
TELEPHONE: (212) 403-1000
FACSIMILE: (212) 403-2000

GEORGE A. KATZ (1965-1989)
 JAMES H. FOGELSON (1967-1991)
 LEONARD M. ROSEN (1965-2014)

OF COUNSEL

ANDREW R. BROWNSTEIN	ERIC S. ROBINSON
MICHAEL H. BYOWITZ	ERIC M. ROSOF
KENNETH B. FORREST	MICHAEL J. SEGAL
BEN M. GERMANA	WON S. SHIN
SELWYN B. GOLDBERG	DAVID M. SILK
PETER C. HEIN	ELLIOTT V. STEIN
JB KELLY	LEO E. STRINE, JR.*
JOSEPH D. LARSON	PAUL VIZCARRONDO, JR.
LAWRENCE S. MAKOW	JEFFREY M. WINTNER
PHILIP MINDLIN	AMY R. WOLF
THEODORE N. MIRVIS	MARC WOLINSKY
DAVID S. NEILL	

* ADMITTED IN DELAWARE

COUNSEL

DAVID M. ADLERSTEIN	MICHAEL W. HOLT
SUMITA AHUJA	MARK A. KOENIG
FRANCO CASTELLI	CARMEN X.W. LU
ANDREW J.H. CHEUNG	J. AUSTIN LYONS
PAMELA EHRENKRANZ	ALICIA C. McCARTHY
ALINE R. FLDR	JUSTIN R. ORR
KATHRYN GETTLES-ATWA	NEIL M. SNYDER
ADAM M. GOGOLAK	JEFFREY A. WATIKER
ANGELA K. HERRING	

ELAINE P. GOLIN
 EMIL A. KLEINHAUS
 KARESSA L. CAIN
 RONALD C. CHEN
 BRADLEY R. WILSON
 GRAHAM W. MELI
 GREGORY E. PESSIN
 CARRIE M. REILLY
 MARK F. VEBLEN
 SARAH K. EDDY
 VICTOR GOLDFELD
 RANDALL W. JACKSON
 BRANDON C. PRICE
 KEVIN S. SCHWARTZ
 MICHAEL S. BENN
 ALISON Z. PREISS
 TIJANA J. DVORNIC
 JENNA E. LEVINE
 RYAN A. MCLEOD
 ANITHA REDDY
 JOHN L. ROBINSON
 JOHN R. SOBOLEWSKI

STEVEN WINTER
 EMILY D. JOHNSON
 JACOB A. KLING
 RAAJ S. NARAYAN
 VIKTOR SAPEZHNIKOV
 MICHAEL J. SCHOBEL
 ELINA TETELBAUM
 ERICA E. AHO
 LAUREN M. KOFKE
 ZACHARY S. PODOLSKY
 RACHEL B. REISBERG
 MARK A. STAGLIANO
 CYNTHIA FERNANDEZ
 LUMERMANN
 CHRISTINA C. MA
 NOAH B. YAVITZ
 BENJAMIN S. ARFA
 NATHANIEL D. CULLERTON
 ERIC M. FEINSTEIN
 ADAM L. GOODMAN
 STEVEN R. GREEN
 MENG LU

MEMO ENDORSED

USDC SDNY
 DOCUMENT
 ELECTRONICALLY FILED
 DOC #: _____
 DATE FILED: 6/10/24

DIRECT DIAL: (212) 403-1313
 DIRECT FAX: (212) 403-2313
 E-MAIL: NDCULLERTON@WLRK.COM

June 7, 2024

Via ECF

The Honorable Valerie E. Caproni
 United States District Court
 Southern District of New York
 40 Foley Square, Room 240
 New York, NY 10007

Re: *Cheyne Capital US, LP v. Medical Properties Trust, Inc.,*
1:24-mc-218 (VEC) – Letter Motion to Seal and Redact
Documents

Dear Judge Caproni:

Pursuant to Section 5.B.ii of the Court's Individual Practices, Respondent Medical Properties Trust, Inc. ("MPT") files this letter motion to seal and redact documents.

In connection with its opposition to Petitioner Cheyne Capital US, LP's motion to quash, Dkt. 4, MPT will file two documents produced by defendants in the underlying defamation action pending in the U.S. District Court for the Northern District of Alabama, captioned *Medical Properties Trust, Inc. v. Viceroy Research LLC, et al.*, No. 2:23-cv-00408 (N.D. Ala.). The subpoena at issue on Cheyne's motion was issued by MPT in connection with

WACHTELL, LIPTON, ROSEN & KATZ

The Honorable Valerie E. Caproni
June 7, 2024
Page 2

the Alabama action. The two documents—a non-public agreement between Cheyne and Viceroy and an email exchange between Cheyne personnel and one of Viceroy's members—are Exhibits 2 and 4 to the Declaration of Nathaniel Cullerton in support of MPT's opposition to the motion to quash (the "Cullerton Declaration"). MPT's opposition brief will reference these two documents, as will Exhibit 24 to the Cullerton Declaration.

Generally, documents filed in judicial proceedings are afforded a rebuttable presumption of public access. *See Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006). Here, however, Exhibits 2 and 4 have been designated confidential by the Viceroy defendants under the Protective Order governing the Alabama action. *Med. Props. Tr., Inc. v. Viceroy Rsch. LLC*, No. 2:23-cv-00408, Dkt. 72 (N.D. Ala. Nov. 16, 2023). MPT has conferred with counsel for the Viceroy defendants, who authorized MPT to disclose these documents to Cheyne and to this Court for the limited purpose of litigating Cheyne's motion. The Viceroy defendants have requested, however, that MPT move to file the documents under seal. Cheyne Capital US, LP has informed MPT that it "takes no position" on the sealing request.

Accordingly, at the request of the Viceroy defendants, MPT respectfully requests that the Court seal Exhibits 2 and 4 to the Cullerton Declaration and permit the redaction of portions of Exhibit 24 and MPT's opposition brief that refer to the non-public contents of Exhibits 2 and 4.

Respectfully submitted,



Nathaniel Cullerton

Application GRANTED. The need to protect information that has been designated confidential under a protective order in a separate action is a countervailing interest that outweighs the presumption of access to judicial documents set forth in *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 124 (2d Cir. 2006) and justifies sealing Exhibits 2 and 4 to the Cullerton Declaration and the narrowly tailored redactions in the publicly filed Exhibit 24 and MPT's opposition brief. The unredacted versions of Exhibit 24 and MPT's opposition brief at Dkt. 13 may remain under seal.

SO ORDERED.



6/10/24

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE